
APPENDIX B:

SWANSON E-MAIL ON CCAP FRAUD

Mr. Swanson prepared this e-mail in response to questions posed by the Office of the Legislative Auditor (OLA). He sent it to Inspector General Carolyn Ham for review. DHS Commissioner Emily Piper sent the e-mail to OLA on September 4, 2018. In her September 4, 2018, letter to OLA, Commissioner Piper said: “Some of the information contained within the document is new to me, DHS’s deputy commissioner, and others on our leadership team. Although we have not yet fully vetted the accuracy and veracity of all components of the document at this point, I did not want to delay sharing this information with you and your team....”

When DHS officials learned that OLA would make Swanson’s e-mail public in this report, they requested that OLA redact several specific names and references based on data privacy concerns. We agreed. The redactions are on pages B-6 and B-11.

Date: August 24, 2018

From: Jay Swanson, Manager, DHS Recipient & Child Care Provider Investigation Unit

To: Carolyn Ham, Inspector General, MN Department Human Services

Subject: DHS-OIG Response to OLA Inquiry of 08/03/2018

Since its inception in 2014, the Child Care Provider Investigations Unit has seen, in nearly all the cases it has investigated, CCAP providers using a similar scheme to successfully steal large sums of taxpayer money from this program. Based upon our four years of experience investigating fraud in this program, it is our opinion that while a significant amount of responsibility for this large scale theft of CCAP funds rests with the sophistication and daring of the criminals exploiting this program, an equal amount of responsibility rests with the lack of internal controls involving statutes, CCAP policies, and rules that dictate how this program operates.

When this unit was formed in mid-2014, it was originally staffed with 4 investigators, and 1 manager (who had oversight responsibilities for other units within DHS as well), as well as two BCA Special Agents which DHS contracted for. Over time a unit supervisor was hired, followed by a criminal forensic analyst, and beginning in late 2017 and carrying into mid-2018, 6 additional investigators and an investigative assistant were added to the unit. The initial group of 4 investigators consisted of retired law enforcement officers averaging 20 years of experience each, with many of those years spent investigating a variety of crimes up to and including homicide. The supervisor and manager were each retired law enforcement officers averaging 35 years of experience, many of those involving the investigation of crimes including narcotics trafficking and extensive experience investigating a wide variety of fraud. The manager & supervisor each have years of experience investigating federal crimes, conducting joint investigations with multiple law enforcement agencies, and having cases prosecuted in federal court. The recently hired investigators each have significant experience as law enforcement

officers investigating a wide variety of crimes, and the criminal forensic analyst joins the unit with approximately 15 years of experience holding the same position with the BCA. I draw attention to the collective experience of this unit readers of this document can draw reasonable inferences as to the ability of this unit to make the assertions, and reach the conclusions contained herein.

The investigators in this unit, as well as each of the BCA Special Agents that have been assigned here are committed to aggressive investigation and prosecution of persons involved in defrauding CCAP. We recognize that aggressive investigation and prosecution of those responsible for large scale CCAP fraud is a critical element in solving this problem. These investigators and agents however also firmly believe that the extraordinary level of weaknesses present in the internal controls of this program will allow the fraud to continue unabated, or unfortunately possibly increase, until changes are made in this area. The weaknesses in internal controls will require changes in state statutes, CCAP policy, and Rules. Described below are the primary program integrity issues facing CCAP, along with some possible solutions.

Many child care centers engaged in large scale overbilling

DHS investigators routinely uncover large scale overbilling after receiving information in the form of tips or leads that specifically mention the overbilling taking place, or that mention activities which in their experience is indicative of a provider that is overbilling as well as possibly engaged in additional fraudulent activity. Since this unit became operational, it has always been faced with far more tips/leads which they deem to be likely valid, than they are able to investigate.

Throughout its existence, the unit has received tips/leads from a wide variety of sources. These include: county CCAP staff, DHS Child Care Licensing staff, the general public, CCAP parents, current and former employees & co-owners of child care facilities, a variety of other government agencies, and community members. With a finite (albeit recently increased) staff of investigators, the investigators are nearly always carrying a full load of cases. As soon as investigative resources become available as a case is completed, the unit manager and supervisor, having reviewed the tips/leads as they come in, discuss these with the investigators. After discussing the nature and severity of the tip, its likely credibility, the possible ties to other cases either under current investigation or past investigations, and the amount of CCAP funds that have been paid to the various providers, the manager, supervisor, and investigators reach a consensus on which provider should be investigated next.

Once a case has been selected for investigation, a preliminary workup is completed to research the known owners and controlling individuals involved in the providers operation. Often the information contained in the tip/lead may not specifically indicate overbilling CCAP, but it has been our experience that often the highly unusual actions alleged to have occurred involving the provider indicate overbilling or financial misconduct involving CCAP is likely occurring as well.

In order to prove a provider is overbilling CCAP, it is necessary to document how many children were cared for on a particular day, and later compare that to the number of children the provider claimed, via its billing, to have cared for. To do this investigators conduct both physical and video surveillance of a providers location. Physical surveillance is difficult to maintain for extended periods of time both from the investigators perspective (how many hours can an investigator sit in

a vehicle without moving, as well as leading to an increased likelihood of being detected by persons associated with the provider. Video surveillance is the preferred method of surveillance, since it results in evidence that can be introduced in either a criminal or administrative proceeding. When video surveillance is conducted at a provider's location, it is recorded, and while an investigator still must watch the video the same as they would watch a center physically, the video can be stopped at any time and the investigator can resume watching it at a later time. Additionally, if there is any question regarding how many children walked into a center at a particular time, the video can be replayed as many times as necessary to ensure an accurate count. In the 15 cases where this unit has directed CCAP payments stopped due to demonstrated intentional overbilling, the 15 centers overbilled by a combined total of 12,667 children over a total of 530 days, or an average of 23.9 children per day, per center. These 15 centers were paid a total of \$56,361,680 in CCAP funds during the time those centers were in operation.

The fraud problem is so pervasive in this program that investigators at any given time have concerns, due to information received, or becoming aware of actions/indicators by a center that mirror indicators commonly seen by known fraudulent centers (actions or indicators that are not observed in legitimate child care centers). In CY2015 investigators had fraud concerns involving 35 of the 50 highest paid centers. In CY2016 there were concerns involving 41 of the 50 highest paid centers. **In CY2017 there were fraud concerns involving 42 of the 50 highest paid centers.** Taking a broader look at the scope of the problem, in 2017:

- **Investigators have significant concerns regarding 72 of the top 100 highest paid centers.**
- **Investigators have significant concerns regarding 100 of the top 150 highest paid centers.**

In 2017, the top 100 providers were paid a total of \$118,208,722, or 54% of the CCAP funds paid to child care centers. In 2017, the top 150 providers were paid a total of \$146,217,382 or 67% of the CCAP funds paid to child care centers. Investigators in this unit believe auditors and elected officials should be very concerned about the high number of the highest paid child care centers that display indicators of fraud. This concern should be amplified when one considers the percentage of program dollars paid to these highest paid providers. Below is a breakdown showing the average CCAP payments made to the 50 highest paid centers as compared to the remaining 1,043 centers.

CY2017 CCAP PAYMENTS TO LICENSED CHILD CARE CENTERS

50 HIGHEST PAID CENTERS

TOTAL PAYMENTS: \$76,052,255
AVG TO EACH CENTER: \$1,521,045

REMAINING 1.043 CENTERS

\$141,169,955
\$135,349

CCAP eligible mothers recruited by providers paying cash kickbacks

In a number of the cases investigated thus far, DHS investigators and BCA agents have determined that the child care center owner(s) have recruited CCAP eligible mothers by offering to pay kickbacks to entice the mothers to advise county CCAP staff that their children are attending a particular center. It is very common for center owners to pay kickbacks to the mothers of \$200+ per child per month, with the highest kickback investigators have been told about by mothers being \$300 per month per child. Providers do this to attract as many parents/children to their center as possible, so that providers can bill CCAP for the largest number of children possible. The only requirement of most mothers is that they come regularly

to the provider's location to sign attendance records claiming all their children were at the center for the number of hours they were authorized for. The kickbacks are often paid in cash, which are not reported by mothers (such reporting may make them ineligible for benefits). In other instances the mothers receive what is purported to be a payroll check, when in reality the check is their kickback. These "payroll checks" at times are issued from the child care center, however as the restrictions on the number of parents who can work at a child care center their children attend become more restrictive, child care center owners are opening shell businesses such as janitorial companies or catering companies & issuing checks from those businesses. These types of businesses normally have no legitimate operations, and the only purpose they serve is to provide "a place of employment" which mothers need in order to remain eligible for the program. Investigators have interviewed some mothers who admitted this takes place, and have even recovered internal video footage showing an individual handing envelopes to mothers, and found an employee of that child care center that admitted that those were cash kickbacks in the envelopes, not payroll checks. That mother advised that you could easily tell the difference because the kickbacks were always in white envelopes and paid on a Saturday, while payroll checks to employees did not come in an envelope, and were issued on a different day of the week. DHS Licensors and OIG investigators regularly see documents, and interview excessive numbers of mothers of CCAP children who claim to be cleaners or janitors (in a facility that is filthy), or a large number claiming to be "kitchen help" when investigators viewing surveillance video for 30+ days have observed the only food going into a center is take-out pizza in a box. Some centers also seem to have a significant number of mothers whose job is that of a "toy or book washer". Investigators and Licensors have seen males whose purported job a child care center is "security", or "paper filer".

Fraudulent centers opening in same location as previously fraudulent center

This unit has seen a number of instances where a child care center has been closed due to having CCAP funding stopped as a result of fraudulent billing and/or criminal charges being filed against the owns. It has become a regular occurrence for DHS Child Care Center Licensing to receive an application for a new center, in the same location as the recently closed center within a few weeks of the other center closing. In time investigators determine that the newly opened center is also defrauding CCAP. Investigators strongly believe that many of these cases what occurred was that a sale took place on paper, and that the previous owner is likely a silent (off the books) partner in the new business.

Child care centers being opened for no reason other than to defraud CCAP

Since this unit was formed, investigators have heard reports from DHS Child Care Center Licensing that persons with no experience in child care, have been opening child care centers. As cases have been investigated we have seen repeated instances of persons associated with the operation of these centers that have no background in child care. Additionally, individuals have advised us that in these types of situations there are almost always several "silent owners" who have a financial interest in the center (greater than 5%), but whose identities have not been disclosed to DHS as required by law. The individuals that disclose this information to investigators often are persons formerly associated with a center and are in a position to know such things. In several cases thus far, investigators have found, during searches of the business, evidence corroborating such claims, generally in some type of financial document showing

payments made to other individuals, often with a percentage of ownership noted. Some former co-owners of these centers, & some parents of CCAP eligible children have told investigators that it is common knowledge in certain communities that being an owner, or even partial owner of a child care centers is the easiest and surest way for immigrants to get rich in the U.S. **An OIG study in 2017 showed at that time that there were in excess of 320 child care centers receiving CCAP payments in Hennepin County alone.**

Child care centers operating with nearly 100% public clients

Of the 15 child care centers DHS-OIG has stopped payments due to fraud thus far, all of the centers have operated with 100%, or nearly 100% CCAP clients. This model encourages fraudulent operation, since owners have recruited mothers based on them having CCAP eligible children. Since parents are recruited by offering kickbacks equal to or greater than other centers, as well as being told they are their children do not have to attend the center with any degree of regularity, the whole manner of operation is by definition fraudulent.

Child care centers creating false documents

In nearly every case thus far, investigators have seen providers that create a variety of false documents in order to become licensed and to operate. This starts with false information on the license application regarding who the owner(s) and controlling individuals of the center are. Investigators have found fraudulent training certificates created by owners, purporting to claim that employees have completed required training in the area of children's safety. Often a clue is that the certificates for various training session purport to claim all employees completed the training on the same date. At times the suspicion regarding the documents is proven when employees admit that they never completed the training the certificate in their file claims they completed. The single most fraudulent document center owners provide to investigators are the attendance records. In every case thus far, when the attendance records of a center are compared against the video surveillance logs, the scope of the discrepancies between the two leaves no doubt that the attendance records are a complete fabrication. There are large discrepancies between both the number of children that attended the center on a given date, but also, and even more telling is the times at which children purportedly arrived. It is not unusual to see attendance records that claim X number of children arrived at the center between 8:00 am and 11:00 am, when the video surveillance shows only a fraction of that number of children actually arrived, and the purported arrival times according to the attendance records did not even come close to matching the times children were observed arriving at the center on video (see attached example of an analysis between attendance records and the video log).

Center owners engaged in large scale money laundering

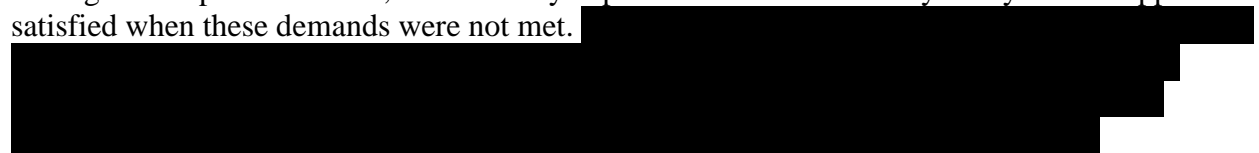
Most of the investigations conducted to date have revealed clear evidence that owners and controlling individuals of these fraudulently operated child care centers are engaged in money laundering on a large scale with the proceeds from CCAP fraud. This activity generally involves having an unusually large number of accounts at various financial institutions before the money reaches its final destination.

Some industry representatives engaged in illegal activities

In late 2016 DHS officials were contacted by a newly formed group, initially comprised of 6 individuals, purporting to represent a segment of child care center owners, advising that they had formed an association of minority child care center owners. Some DHS officials began meeting with these representatives, who professed that they wanted to work with DHS to reduce or eliminate fraud. In one of the early meetings, on 12/20/2016 a DHS management official reported to investigators immediately after a meeting with association representatives that the association reps wanted DHS' help in enacting regulations that would prohibit CCAP parents from moving their children from one center to another. When DHS officials advised that they would not agree to this, the association reps advised that if DHS could assist with this, that it would help to lower the number of fake paychecks that providers give clients, and would eliminate the need for providers to pay kickbacks. The association rep stated "If we make \$50,000 a month, but pay out \$30,000 to mothers in kickbacks, we lose profits".

Shortly after these meetings began, Child Care Investigators met with a community member who walked into the DHS office. This community member wanted to make investigators aware of the intentions of this group of representatives. The community member advised that many other community members referred to this group of child care center owners as "the sharks".

Investigators were told that the child care representatives were going to profess to want to work with DHS, while at the same time attempting to derail investigations of fraudulent centers, and attempt to gain inside/advance knowledge of DHS' plans regarding child care program integrity efforts, so that their group could develop plans on how they could continue to defraud CCAP. As soon as the identities of the representative group became known, investigators conducted basic research and learned that various state and federal law enforcement agencies, and other government entities held very reliable information that approximately 1/2 of the members were clearly engaged in serious criminal activity. Investigators made DHS management aware of the general problem without going into specifics, so as not to compromise current and future investigations. In early 2017 the Acting Inspector General and the Manager of Child Care Provider Investigations were advised to meet with the association representatives. During that meeting the representatives interrupted the Acting Inspector General, and stated they wanted to speak to the "fraud guy", because when his people show up, their centers get shut down and the money is stopped. Association representatives requested the Managers cell phone number, and advised that DHS did not have to go looking for fraud, that the Association would call and tell the Manager which centers were engaging in fraud, and then the fraud guys "could go out the next day and shut them down". The Manager refused to provide his cell phone number, and advised the association reps that they could make fraud reports either via phone, or online, and they could remain anonymous. The association reps were advised that in any event, no investigators would be going out the next day to shut a child care center down, since there would be a need to conduct an investigation to determine if a provider was committing fraud before any action was taken. The association reps repeated their demand several times that they wanted the Managers cell phone number, and that they expected action the next day. They did not appear satisfied when these demands were not met.



In the summer of 2017, a DHS Child Care Center Licensor reported to investigators that on visits to two child care centers, owners of those centers had recently reported that several members of this association had arrived at their centers in a van, and had attempted to convince these center owners that they should join their association. One of the center owners reported that they were told the association dues were either \$1,200 per month, or per quarter, they could not remember. When the owners stated they did not want to join the association, they were told that if they did not join the association would report them for fraud to DHS, and DHS would shut their business down. The association reps also told the owners that they have met with the Governor and with DHS bosses, and that they can make things like this happen.

Center owners moving fraud proceeds out of the U.S.

In nearly every case, BCA agents assigned to these cases have obtained bank records of owners and child care centers once they have documented that there is probable cause to prove that CCAP fraud is being committed. These records, clearly show that some owners/controllers individuals have made large wire transfers to banks primarily in the Middle East or Africa, often soon after they receive a large CCAP payment. BCA agents and DHS Investigators work closely with federal law enforcement agencies, and when evidence of federal crimes are uncovered during a child care investigation, that information is shared with the appropriate agency. While it is not within the purview of either DHS investigators or BCA agents to determine the final destination of the money sent overseas by persons involved in child care fraud, investigators have been advised by federal officials going back to 2015 that it is a near certainty that at least a percentage of the fraud proceeds that go overseas are being siphoned off by one or more Designated Terrorist Organizations (DTO's). BCA agents and DHS investigators have often seen clear evidence of money laundering and tax evasion being committed by persons associated with child care centers they have investigated. BCA agents and DHS investigators also review data obtained from the cell phones and computers used by persons operating suspected fraudulent child care centers. Information obtained from these sources, in some cases, has provided investigators and agents with clear proof that owners/controllers individuals have taken deliberate steps to defraud CCAP. Analysis of these electronic devices also shows that some of these child care center owners/controllers individuals have purchased or are in the process of purchasing expensive homes in stable foreign countries.

Current State computer systems are unable to capture IP address of computers billing CCAP

In early 2015 investigators in this unit discovered that state data systems were not capturing the IP address of computers used to bill CCAP. Individuals who use a computer to bill CCAP, do so via a program named MEC2Pro. Investigators in this unit have also discussed this matter with SIRS Management, and learned that state systems are not capturing the IP address of computers billing DHS for Medicaid Services. In 2015 this weakness was brought to the attention of the Commissioners of MNIT and DHS. To date this unit is not aware that any concrete steps have been taken to capture and retain this information in a format that would allow investigators to query it. It is a significant weakness of these programs. In order to prove who submitted fraudulent billing to either CCAP or a Medicaid program, the first step would be to locate the IP address of the computer that submitted the bill. Speaking only for CCAP, the lack of this basic information has significantly increased the amount of time to complete investigations, as we

focus on attempting to determine who was responsible for the fraudulent billing. In some cases even after spending hundreds of investigative hours in this area, we have been unable to prove who actually did the billing. It should be noted that **this weakness leaves both these units in the blind as to who is actually billing for the state for several billion dollars per year between the various programs.**

Large scale collusion involving fraud between providers and recipients

In the CCAP program as it currently exists, providers seeking to garner as many CCAP funds as possible, and willing to commit fraud to do so, can't do so without large numbers of CCAP eligible children. As a result of the large number of providers who are willing to pay kickbacks to mothers just to register their children at a center, mothers have many choices of where to register their children at. It is common knowledge among both fraudulent CCAP as well as CCAP eligible parents, that mothers or parents with a larger number of children are significantly more valuable to a fraudulent provider than a CCAP mother with one or two children. Investigators have repeatedly heard stories of mothers with 8 or 10 children who have gotten into "bidding wars" with various providers wishing to register those children at their center because of the CCAP billing they would generate. In addition to kickbacks, providers and mothers "work the system" in order to maximize the CCAP billing. For instance, a mother with both pre-school and school age children will be told that during the school year they will be offered a job at the child care center, but only on the evening shift. This is done so that the provider can bill for not only the pre-school aged children, but also the school aged children (once the children are out of school in the afternoon).

Excessive time allowed for providers to submit CCAP bills

Currently providers can submit bills up to 60 days after a two week billing period ends, however the statute seems to indicate that with good cause a provider could submit bills up to one year after the claimed date of service. In most of the cases investigated thus far, DHS-OIG investigators see providers that stagger their billing, and frequently wait for close to the 60 period before submitting all billing for a billing period. This causes investigators who have conducted surveillance on a center, and who know how many children actually entered a center on a given day, to often have to wait up to 60 days before they are able to determine if a provider overbilled. This limit should be reduced to 30 days after the last day of the billing period.

No minimum stay requirement before a provider can charge for a full day.

In every case this unit has investigated in the four years of its existence, investigators have seen many children who are not at the center for the number of hours that are being billed for, or that are indicated on the attendance records. Currently counties and agencies can approve up to 120 hours of child care every two weeks for each child. Providers are allowed to bill for the number of hours authorized. In every investigation investigators see numerous instances of mothers bringing their children to a center for short periods of time (approximately 15 minutes), and then leaving with the same number of children then entered with. In these instances investigators believe the mother is simply signing attendance records-perhaps for that day, possibly for a week or two. Another common scenario involves mothers bringing their children to a center later in the afternoon (approx 4:30 pm), the mother staying with the children at the center, and then mother and children departing in the early evening (approx 7:00 pm- 8:00 pm). During this time period

investigators frequently see pizza being delivered to the center at approximately 6:00 pm-6:30 pm. In these instances it is believed that mothers are signing attendance records, mingling with other mothers, children are playing, and that it is essentially a taxpayer funded social event, which ends after mothers and children have a pizza dinner. It is imperative that statutes governing this program be changed to require children to be present for a certain number of hours per day before a provider can charge for a full day. Additionally, due to the very high rate of fraud involving paper attendance records in these types of cases, use of an attendance record keeping system that uses biometric scanning is essential.

Providers “find” attendance records months after investigators make request

Current statutes would seem to clearly state that child care providers must make their attendance records immediately available to counties or the commissioner upon request. A recent tactic successfully used by attorneys for providers, is when faced with a large overpayment due to inadequate or missing attendance records when county or OIG investigators made an on-site request, is to produce newly found records at the time of an appeal hearing, and having judges rule that those records (which now fully support a providers billing) will be accepted as evidence. This apparently clear statute needs to clarify that any attendance records not provided to investigators on site will not be admitted in evidence at any criminal or administrative hearing.

Current method of calculating attendance record overpayments too time consuming

When faced with attendance records that do not support a providers billing, counties currently have to undertake a very time consuming process to calculate the provider's overpayment. DHS is recommending that the overpayment calculation be simplified so that any day that a providers attendance records do not contain all data required by statute, that the overpayment be one daily rate for the age of the child involved.

Inability to stop payments to fraudulent providers

The database used to manage the Child Care Assistance Program is MEC². There is no method to immediately shut off payments to a provider when it has been determined that the provider has fraudulently billed CCAP. The system allows counties and agencies to close a provider's registration, and after a registration is closed in a county, if a bill were to be submitted for care after that date, that bill would be rejected by the system. The problem that exists is when DHS-OIG determines a provider has fraudulently billed CCAP, OIG can direct counties to immediately stop payments and close a provider's registration. The issue arises if say 45 days later a provider submits a bill to a county, and the bill claims to be for service prior to the date of the providers registration being closed, that unless a county worker remembers that this specific provider is in effect on a “do not pay list”, and approves the bill, the bill will be paid.

DHS-OIG has seen time after time in its fraud cases that bills are being paid to fraudulent providers, either because they are accidentally approved, or a bill is in the pipeline at the time DHS-OIG orders a payment stop. System upgrades should be made to allow DHS to immediately stop all payments to a provider once fraud has been determined. A recent study of this issue on the 15 DHS-OIG provider fraud cases show each provider received at least one payment after DHS-OIG determined fraud. **The total payments made to these 15 providers after fraud was determined was \$776,063.86.**

In addition to system upgrades to allow for immediate payment stops, this unit strongly suggests system upgrades to require billers to enter the number of hours billed for each child each day, instead of the field being pre-populated, and stringent fraud warnings requiring an acknowledgement before a bill can be submitted.

Young children whose mothers are not at a center are not fed

DHS investigators have received multiple reports in the last four years from immigrant mothers who advise that it is very common, that if a young child is at a child care center, and their mother is not present, that the child will not be fed. In each case the mothers have explained to us that older children (such as school aged children) are big enough to fend for themselves, and the younger children whose mothers are “working” at a child care center will ensure their young children are fed, but that in their culture, these mothers feel no responsibility for feeding other young children that are not their own, even if the mother is a center “employee”.

Centers claim to care for children on multiple shifts

In every case investigated thus far, providers have claimed to be caring for children on two shifts. One shift has children arriving in the morning, and then those children leaving in the early-mid afternoon, and another shift of children arriving in the late afternoon and staying until approximately 9:00 pm. Video surveillance in these cases has clearly proven children are not arriving as early as claimed, and are not staying as late as claimed. Investigators have determined that the reason for the providers' actions in this area is so they can bill for more children each day. Every child care center has a capacity for their building that is set by local fire officials based in part on the square footage of their building, and is reflected on their child care center license. By billing for children on two shifts they can double the number of children billed for each day. For example a child care center with a capacity of 75 could bill CCAP for 75 children on a day shift, and 75 children on an afternoon shift, for a total of 150 children per day.

DHS has no control over who becomes a CCAP provider

Licensed child care centers wishing to become a CCAP provider enroll through the various counties and agencies. The amount of information required from these providers is minimal (see attached Provider Registration form). DHS-OIG has made requests that the form be altered to require more biographical information and a copy of a U.S. state driver's license or state ID card be obtained at the time of application in addition to the SSN's of the person(s) wishing to become CCAP providers. OIG spends many unnecessary investigative hours proving who a specific provider was due to this lack of biographical data. This situation becomes even more difficult when the provider has gone out of business. When one looks at the amount of money that can be siphoned from CCAP by a fraudulent provider, obtaining additional identifying data to assist investigators in locating that person should not be an issue. This function should be transferred to DHS-OIG.

DHS has no control over who obtains access to the MEC²Pro billing system

As with those wishing to become CCAP providers, DHS should have control over who can obtain access to the billing system. Again this is done through the counties and agencies. Again OIG has requested that additional biographical information and a copy of a U.S. state driver's

license or state ID card be obtained at the time of application, and this request has been denied. In this vitally important question of who is actually doing the billing for CCAP providers, this function should be transferred to DHS-OIG with appropriate changes in state law to require the necessary biographical information and identification to ensure that at a minimum we know who is being given access to the billing system.

Current burden of proof for provider disqualification is too high

State statutes are somewhat unclear on what the burden of proof is for child care provider fraud disqualification cases, although the DHS Appeals Division has settled on proof by Clear and Convincing Evidence. This burden of proof is different from all other DHS provider types. All other provider types have a burden of preponderance of the evidence. The difference is quite significant, because it requires investigators to invest hundreds of additional hours on each case in order to develop that level of evidence. In doing so it slows all cases down, because the additional investigative resources spent developing these cases could be spent on other cases.

Providers falsifying/misrepresenting employee identities and qualifications

DHS staff often encounter center employees who provide their names, and a short time later when center owners are asked for the personnel files of the employees on site, hand DHS staff personnel files with completely different names, and accuse DHS staff of intimidating employees so the employees provided false names. In nearly every one of these instances the owner was not present in the classroom when the DHS staff person had the conversation with the center employee.

Fraudulent “High quality” centers receive higher reimbursement rates

The CCAP system has provisions for providers that have been certified by certain organizations as essentially high quality centers to receive higher reimbursement rates from CCAP. The certification process for these programs relies heavily on an easily created paper trail that a provider, in concert with others can and have created. **In the last four years the Child Care Provider Investigation unit has built fraud cases, and stopped payments due to fraudulent billing to 6 “Parent Aware” rated centers. This means that 40% of the cases this unit has investigated involve large scale billing fraud being committed by a “high quality” provider.**

[REDACTED] While the stated goal of these programs are laudable, the reality is that their business model will always leave these rating vulnerable to fraud, which is not difficult for a determined provider.

Additional fraud trends/concerns

- **Identity falsification / misrepresentation.**
 - The names on personnel files in CCAP Centers did not match the names provided by onsite teachers/staff providing services to children in some cases.
 - Centers fail to disclose all owners or controlling individuals in their licensing applications.

▪ **False jobs / False Pay Stubs to meet CCAP qualification requirements. Tax Fraud.**

DHS Licensors would document that the CCAP facility was dirty and unsanitary, despite CCAP Center records stating that the Center employed a large number of parents as cleaners or janitors each working 20-30 hours per week. When checking employee personnel files at a center, Licensors would note that there was an abnormally high number of staff, the majority of whom were parents of CCAP children. Licensors believed no business could operate profitably with the number of staff, and hours worked, claimed by the center. The job titles for these employees were titles Licensors had not seen previously at child care centers, such as:

- A large number of “kitchen helpers” at a center that does not prepare food, but uses a caterer.
- “Security” staff
- “Landscaper”
- “Hall monitor”

▪ **False Pay Stubs to Meet CCAP Qualification Requirements.**

County case workers repeatedly encountered parents providing false pay stubs as evidence of employment. Applicants for CCAP told case workers that they were not employed or going to school. These applicants were informed that they were required to provide proof of employment or school attendance before they were eligible for CCAP. In some cases, the applicant would return the next day with pay stubs from the CCAP Center they wanted their child to attend, documenting that they had been employed for 4 weeks. When questioned about their earlier statements that they were unemployed, some applicants stated that the owner of the CCAP Center printed out false paystubs and told the applicant to provide them to the county caseworker.

▪ **Parent coercion / intimidation by CCAP Centers.**

Parents informed county CCAP eligibility workers that they had applied for positions at CCAP Centers, but were told they would not be hired unless they were approved for CCAP and agreed to have their children registered at the CCAP Center they wanted to work at.

▪ **Facilities Fraudulently “Staged” for Purposes of Obtaining a CCAP License.**

During pre-licensing inspections, Licensors would observe all necessary toys, books, and equipment in place. After becoming licensed, when the same Licensors made a follow-up visit, the vast majority of the toys, books, and equipment was not present in the center. Licensors would often see that when parent employee were arriving after the Licensors were onsite, the parents would be carrying baskets of toys or books to supplement the minimal amount of toys or books present in the center. When Licensors questioned the parents as to why they were bringing a basket full of toys or books, the parent advised that they “had been washing the toys and books”.

Conclusion

Investigators in this unit do not believe, despite the number of cases investigated thus far, that any real progress has been made regarding CCAP fraud. Investigators believe that current internal controls and statutes are not stringent enough to make reasonable progress in reducing the level of fraud in this program. Investigators regularly see fraudulent child care centers open faster than they can close the existing ones down. Investigators believe drastic actions on several fronts (legislative as well as policy) are needed to make progress in this area, not only to reduce the significant waste of taxpayer dollars involved in this program, but to also attempt to provide a reasonably effective pre-school education for this high risk group of children. Immediate action

is also necessary to curb the large flow of CCAP fraud proceeds leaving the country that are likely being used for purposes that should concern most taxpayers. Investigators within this unit are in regular contact with federal law enforcement officials, as well as fraud investigators in other states, and are aware that the significant issues seen in Minnesota regarding this program are also taking place in a number of other states.

Investigators, as well as the Supervisor and Manager of this unit believe that the overall fraud rate in this program is at least 50% of the \$217M paid to child care centers in CY2017. In arriving at this opinion, members of this unit want to make clear how they would define fraud. The fraud amount used in prosecuting criminal or administrative cases in this program involves a simple calculation of how many children arrived at a center, and how many children did the provider bill for on a given day. If one takes a higher level view of this program and realizes that in these fraudulent centers, our investigations have shown that mothers are not receiving legitimate employment experience (by having no show jobs or jobs that simply require them to spend a few hours a day at a center watching their own children, and that several internal video systems seized from these centers show day after day that children are unsupervised, running from room to room while adult “employees” spend hours in hallways chatting with other adults, or talking or texting on their phones, one could reach the conclusion that the entire amount paid to that provider in a given year is the fraud amount, since neither the children or the taxpayers received what was being paid for.

In closing, some state officials have referred to a former DHS employee who testified in a Senate committee hearing this past May on the topic of CCAP fraud as a “disgruntled former employee”, or something similar. The impression left by these state officials was that this former employee (Mr. Scott Stillman) should not be believed. I will speak only for myself here, any state officials who wish to question other investigators in this unit will have to speak to those investigators individually. Mr. Stillman is a very honorable man, and a very talented and intelligent investigator. He was in a position to know many things regarding fraud in both the CCAP and the Medicaid funded programs at DHS due to his position as a forensic examiner of digital devices seized during the many investigations conducted by units investigating fraud in these programs. I have seen the results of the forensic exams conducted by Mr. Stillman and others in his unit on CCAP fraud cases. I have not seen the results of any investigations he or his unit conducted pertaining to Medicaid fraud. Based on the evidence I have seen that Mr. Stillman and his group uncovered during their forensic exams on child care fraud cases, I believe everything Mr. Stillman said in that hearing and in a subsequent interview by a local television station. In my opinion anyone who claims that Mr. Stillman was making false statements on this topic either has no knowledge of this situation, or is attempting to shift the focus of the conversation away from a very serious issue.